

Rachel Bien (SBN 315886)  
OLIVIER & SCHREIBER LLP  
595 E. Colorado Blvd., Ste 418, Pasadena, CA 91101  
Telephone: (213) 325-3430  
Email: rachel@os-legal.com

Sally J. Abrahamson (admitted *pro hac vice*)  
WERMAN SALAS P.C.  
335 18<sup>th</sup> Place NE, Washington, D.C. 20002  
Telephone: (202) 830-2016  
Email: sabrahamson@flsalaw.com

*Attorneys for Plaintiffs*

Brian P. Long, SBN 232746  
bplong@seyfarth.com  
SEYFARTH SHAW LLP  
601 South Figueroa Street, Suite 3300  
Los Angeles, California 90017  
Telephone: (213) 270-9600

Andrew L. Scroggins (admitted *pro hac vice*)  
ascroggins@seyfarth.com  
233 South Wacker Drive, Suite 8000  
Chicago, Illinois 60606-6448  
Telephone: (312) 460-5000

*Attorneys for Defendant*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

BO AVERY, PHOEBE RODGERS, KRISTY  
CAMILLERI, AND JILL UNVERFERTH,  
individually, on behalf of themselves and on  
behalf of all others similarly situated,

Plaintiffs,

v.

TEKSYSTEMS, INC.,

Defendant.

Case No.: 3:22-cv-02733-JSC

**UPDATED JOINT CASE MANAGEMENT  
CONFERENCE STATEMENT**

Hon. Jacqueline S. Corley

**Status Conference**

Date: November 7, 2024

Time: 9:00 a.m.

Courtroom: Zoom videoconference

1 Plaintiffs Bo Avery, Phoebe Rodgers, Kristy Camilleri, and Jill Unverferth (hereinafter,  
 2 “Plaintiffs”) and TEKsystems, Inc. (hereinafter, “Defendant”) (collectively, the “Parties”) jointly  
 3 submit this JOINT CASE MANAGEMENT CONFERENCE STATEMENT pursuant to the  
 4 Court’s September 23, 2024 Order Re: Plaintiffs’ Motion for Partial Summary Judgment, ECF No.  
 5 128, and Civil Local Rule 16-9.

### 6 **Factual and Legal Issues**

7 Plaintiffs represent a class of California Recruiters who work or worked for Defendant  
 8 from January 28, 2018 through the final date of judgment. On September 23, 2024, the Court held  
 9 that, as a matter of law, the California Recruiter class is not administratively exempt from the  
 10 overtime provisions of the California Labor Code. ECF No. 128. Plaintiffs also allege that  
 11 Defendant violated California wage and hour laws by failing to provide meal and rest breaks, and  
 12 failing to make timely wage payments upon termination. *See* Lab. Code §§ 226.7, 512; Lab. Code  
 13 §§ 201-03; Bus. & Prof. Code §§ 17200, *et seq.*; Lab. Code §§ 2698, *et seq.*

14 Defendant contends that the claims of 123 class members should be stayed and compelled  
 15 to arbitration. On September 19, 2024, Defendant filed its Notice of Appeal from the Court’s Order  
 16 Denying Defendant’s Motion to Compel Arbitration. Defendant’s Opening Brief in the Ninth  
 17 Circuit Court of Appeals is due December 12, 2024, and Plaintiff’s Answering Brief is due January  
 18 13, 2025.

19 The Parties dispute whether the claims of the over 400 class members who are not subject  
 20 to the motion to compel arbitration are required to be stayed pending the outcome of Defendant’s  
 21 appeal. On October 3, 2024, Defendant filed its Motion Seeking Entry of Automatic Stay Pending  
 22 Appeal & Order Holding Order No. 128 in Abeyance. ECF No. 132. Plaintiffs filed their  
 23 opposition brief on October 17, 2024, and Defendant filed its reply brief on October 24, 2024.

### 24 **Motions**

25 **1. The Parties’ previous motions and the Court’s corresponding decisions are as**  
 26 **follows:**

- On August 31, 2022, the Court denied Defendant's motion to transfer the case pursuant to the first-to-file rule in light of the earlier filed case *Thomas v. TEKsystems, Inc.*, 2:21-cv-00460-WSS (W.D. Pa.). ECF No. 31.
- On January 4, 2024, the Court granted in part and denied in part Plaintiffs' motion for a protective order, denying Plaintiffs' request to invalidate Defendant's arbitration agreements and to restrict communications between Defendant and putative class members about their claims in this case, but directing Defendant to disclose any such communications of Plaintiffs' counsel at the time the communications are made. ECF No. 79.
- On February 13, 2024, the Court granted Plaintiffs' motion for class certification. ECF No. 84.
- On April 9, 2024, the Court granted Plaintiffs' Motion for Approval of Proposed Class Notice, ECF No. 94.
- On August 21, 2024, the Court denied Defendant's Motion to Compel Arbitration, ECF No. 125.
- On September 23, 2024, the Court granted Plaintiffs' Motion for Partial Summary Judgment, ECF No. 128.
- Defendant's Motion Seeking Entry of Automatic Stay Pending Appeal and Order Holding Order No. 128 in Abeyance is fully briefed. The Court has not issued an order.

## **2. Anticipated Motions**

None at this time.

## **Status of Discovery**

In the Parties' April 11, 2024 Updated Joint Status Report, ECF No. 98, the Parties requested a period of time to conduct expert discovery, discovery of damages, and the identification and depositions of trial witnesses who have not already been deposed following the Court's decision on Plaintiffs' Motion for Partial Summary Judgment.

The Parties have scheduled a mediation with Michael Dickstein of Dickstein Dispute Resolution for April 18, 2025. The Parties are conferring about the documents and data they will need to exchange to prepare for the mediation. The Parties request that the Court stay discovery

1 while the mediation is pending and set a deadline for the Parties to submit a Joint Status Report  
 2 following the mediation.

3 **Status of Settlement Discussions**

4 The Parties have agreed to mediate the claims in this case along with the claims raised in  
 5 *Thomas v. TekSystems, Inc.*, Case No. 2:21-cv-00460, a separate lawsuit pending in the United  
 6 States District Court for the Western District of Pennsylvania that also raises overtime  
 7 misclassification claims under the Fair Labor Standards Act and New York, Washington,  
 8 Massachusetts, and Pennsylvania state law. The Parties are currently briefing Plaintiffs' Motion  
 9 for Class Certification and Plaintiffs' Motion for Final FLSA Collective Certification in the  
 10 *Thomas* action, and they intend to complete the briefing on or about December 16, 2024.

11  
 12 DATED: October 29, 2024

Respectfully submitted,

13 /s/ Sally J. Abrahamson

14 Sally J. Abrahamson (admitted *pro hac vice*)

(sabrahamson@flsalaw.com)

15 WERMAN SALAS P.C.

335 18<sup>th</sup> PI NE

16 Washington, D.C. 20002

17 Tel: (202) 830-2016

Facsimile: (312) 419-1025

18 *Attorney for Plaintiffs*

19 /s/ Andrew L. Scroggins

20 Andrew L. Scroggins

(ascroggins@seyfarth.com)

21 SEYFARTH SHAW LLP

22 233 South Wacker Drive, Suite 8000

Chicago, Illinois 60606-6448

23 Telephone: (312) 460-5000

24 Facsimile: (312) 460-7000

25 *Attorney for Defendant*